

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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- 4 APR. 2005

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing (day/month/year)	30.03.2005
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Applicant's or agent's file reference
Cal 87555

IMPORTANT NOTIFICATION

International application No. PCT/EP2004/003310	International filing date (day/month/year) 26.03.2004	Priority date (day/month/year) 07.05.2003
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Applicant
ZAPI INDUSTRIE CHIMICHE S.P.A. et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference Cal 87555	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/003310	International filing date (<i>day/month/year</i>) 26.03.2004	Priority date (<i>day/month/year</i>) 07.05.2003	
International Patent Classification (IPC) or national classification and IPC A01N25/00			
Applicant ZAPI INDUSTRIE CHIMICHE S.P.A. et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of sheets, as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input checked="" type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 			
Date of submission of the demand 02.12.2004	Date of completion of this report 30.03.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Telephone No. +49 89 2399- 		

INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY

International application No.
PCT/EP2004/003310

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-28 as originally filed

Claims, Numbers

1-16 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/003310

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	13-15
	No:	Claims	1-12,16
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-16
Industrial applicability (IA)	Yes:	Claims	1-16
	No:	Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.
PCT/EP2004/003310

Re Item V.

1 The following documents are referred to in this communication:

D1 : US 6 136 340 A (CHUHRAN JAMES E) 24 October 2000 (2000-10-24)

D2: WO 03/094612 A (BOECKER THOMAS ; ENDEPOLIS STEFAN (DE);
BAYER CROPSCIENCE AG (DE)) 20 November 2003 (2003-11-20)

D3 : GB 2 081 583 A (AGRICULTURE FISHERIES & FOOD T) 24 February
1982 (1982-02-24)

D4 : P.A.ANADU: "A study of bait selection in small african rodents" ACTA
THERIOLOGICA, Vol. 24, no. 36, 1979, pages 501-511,
XP009031744

D5 : C.SIVAPRAKASAM ET AL.: "Laboratory evaluation of bait base for the
control of Indian field mouse, mus booduga (Gray)" INDIAN JOURNAL OF
EXPERIMENTAL BIOLOGY, vol. 33, July 1995 (1995-07), pages 497-499,
XP009031740

D6 : M.S.AHMAD: "Laboratory evaluation of some vegetable oils as bait
enhancers against roof rat, Rattus rattus" PAKISTAN JOURNAL OF
ZOOLOGY, Vol. 26, no. 2, 1994, pages 93-97, XP009031742

It is assumed that all claims enjoy priority rights from the filing date of the priority document. If it later turns out that this is not correct, D2 (see below) could become relevant to assess whether the present claims satisfy the criteria set forth in Article 33(1) PCT.

Certain published documents

Application No Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
WO 03/094612	20.11.2003	24.04.2003	07.05.2002

D1 discloses rodenticidal baits containing e.g. coconut oil for improving their consistency, cohesiveness, texture and palatability, thus anticipating the present claims 1-6, 8-10 and 16. No surprising effect due to the use of palm oil instead of coconut oil has been objectively substantiated so far.

D3 discloses rodenticidal baits containing preferably a mixture of soya oil and palm oil, thus anticipating the present claims 1-7, 11-12 and 16.

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.
PCT/EP2004/003310

D4 teaches the good baiting ability of a maize meal / palm oil mixture, not anticipating the present claims because no rodenticide is added to the composition. However, since the study was directed on the baiting not on the toxicity of possible rodenticides, one skilled in the art would have used this teaching to prepare baits with customary rodenticides. The subject matter of the present claims is therefore obvious. The same reasoning applies for D5 and D6.